

Timothy B. Anderson (USB#112)
Brett D. Ekins (USB#11402)
JONES, WALDO, HOLBROOK & MCDONOUGH, PC
301 North 200 East, Suite 3A
St. George, UT 84770-2978
Telephone: (435) 628-1627
Facsimile: (435) 628-5225

Attorneys for Plaintiff Stampin' Up!, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

STAMPIN' UP!, INC., a Utah corporation,

Plaintiff,

vs.

ALIBABA.COM HONG KONG LTD.;
WUYU, KLJUYP LOVERS, COOHOOOL,
LIANGSHANGMEI, YI WU YU YI CO.
LTD., GONGZHIQIAN, ZFPARTY
HANDCRAFT, QIANYAN, YIWU IMPORT
AND EXPORT TRADE, UNIVERSE FLAG,
and QLLH, et al.,

Defendants.

COMPLAINT

(Jury Trial Demanded)

Case No. 2:18-cv-00281-EJF

Magistrate Judge Evelyn J. Furse

Plaintiff Stampin' Up!, Inc. ("Stampin' Up!") hereby complains against Defendants Alibaba.com Hong Kong Ltd. ("Alibaba Hong Kong"), and WuYu, KLJUYP Lovers, Coohool, Liangshangmei, Yi Wu Yu Yi Co. Ltd., Gongzhiqian, ZFParty Handcraft, Qianyan, Yiwu Import and Export Trade, Universe Flag, and QLLH (collectively, the "Defendant Stores"), and alleges as follows:

PARTIES

1. Plaintiff Stampin' Up! is a corporation formed under the laws of the state of Utah, with a principal place of business in Riverton, Utah. Stampin' Up! is a direct sales company that produces and sells decorative rubber stamps and related scrapbooking and papercrafting supplies throughout the U.S., Canada, Europe, Japan and elsewhere.

2. Defendant Alibaba Hong Kong is a corporation formed under the laws of Hong Kong, S.A.R., with a principal place of business at 26/F Tower One, Times Square, One Matheson Street, Causeway Bay, Hong Kong, S.A.R. Alibaba Hong Kong operates AliExpress, an e-commerce platform at the URL <http://www.aliexpress.com> on which merchants in China and elsewhere offer products for sale to buyers around the world, including the United States.

3. Defendant WuYu is a store on AliExpress (store no. 1720113) that sells knockoff Stampin' Up! stamps. WuYu offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

4. Defendant KLJUYP Lovers is a store on AliExpress (store no. 1381742) that sells knockoff Stampin' Up! stamps. KLJUYP Lovers offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

5. Defendant Coohool is a store on AliExpress (store no. 727716) that sells knockoff Stampin' Up! stamps. Coohool offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

6. Defendant Liangshangmei is a store on AliExpress (store no. 2375012) that sells knockoff Stampin' Up! stamps. Liangshangmei offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

7. Defendant Yi Wu Yu Yi Co. Ltd. is a store on AliExpress (store no. 2206145) that sells knockoff Stampin' Up! stamps. Yi Wu Yu Yi Co. Ltd. offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

8. Defendant Gongzhiqian is a store on AliExpress (store no. 2208056) that sells knockoff Stampin' Up! stamps. Gongzhiqian offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

9. Defendant ZFParty Handcraft is a store on AliExpress (store no. 1161386) that sells knockoff Stampin' Up! stamps. ZFParty Handcraft offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

10. Defendant Qianyan is a store on AliExpress (store no. 3153028) that sells knockoff Stampin' Up! stamps. Qianyan offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

11. Defendant Yiwu Import and Export Trade is a store on AliExpress (store no. 1594064) that sells knockoff Stampin' Up! stamps. Yiwu Import and Export Trade offers its

knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

12. Defendant Universe Flag is a store on AliExpress (store no. 1942489) that sells knockoff Stampin' Up! stamps. Universe Flag offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

13. Defendant QLLH is a store on AliExpress (store no. 3177024) that sells knockoff Stampin' Up! stamps. QLLH offers its knockoff stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action for copyright infringement (17 U.S.C. §§ 101 *et seq.*) pursuant to 28 U.S.C. §§ 1331 and 1338.

15. This Court has personal jurisdiction over Alibaba Hong Kong as it has purposefully availed itself of the privilege of conducting commercial activities within the state of Utah and in the United States, which activities have resulted in the injuries to Stampin' Up! alleged herein.

16. Specifically, Alibaba Hong Kong operates AliExpress, an e-commerce platform presented to users in the English language through which merchants in China sell products into Utah and elsewhere in the United States. When accessed from the United States, the AliExpress website appears in English, lists prices in U.S. dollars, and uses the United States as the default shipping location. Alibaba Hong Kong has, through AliExpress, sold a large volume of products into the United States, and Utah in particular, as a result of its intentional marketing efforts

directed at U.S. consumers. AliExpress is a highly interactive website in that it allows consumers to create accounts, communicate with store owners and customer service representatives, order products, and pay for products.

17. This Court has personal jurisdiction over the Defendant Stores as they have purposefully availed themselves of the privilege of conducting commercial activities within the state of Utah and in the United States, which activities have resulted in the injuries to Stampin' Up! alleged herein.

18. Specifically, the Defendant Stores each operate a store on AliExpress that offers knockoff Stampin' Up! stamps for sale in English, lists prices in U.S. dollars, and has the United States as the default shipping location when accessed from the United States.

19. Venue is proper in this District under 28 U.S.C. § 1400(a) because Alibaba Hong Kong and the Defendant Stores can be found in this District. Venue is further proper in this District under 28 U.S.C. § 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claims occurred in this District.

ALLEGATIONS OF FACT

20. Stampin' Up! designs, manufactures and sells decorative rubber stamps for use in stamping. Stamping is a craft in which an image that has been carved onto a sheet of rubber is covered with ink, and then pressed onto a piece of paper, thereby transferring the image to paper. The images that Stampin' Up! designs and places on its stamps will be referred to herein as the "Stampin' Up! Art".

21. Stampin' Up! publishes annual and seasonal catalogs in which stamps bearing the Stampin' Up! Art are offered for sale to the general public. These catalogs have been widely distributed to the public throughout the United States.

22. The Stampin' Up! Art contains a substantial amount of material created by Stampin' Up!'s own skill, judgment and labor, and is copyrightable subject matter under the laws of the United States.

23. Stampin' Up! is the current owner of the entire right, title and interest in the Stampin' Up! Art, including the copyrights and copyright registrations in and to the same.

24. AliExpress is a global retail marketplace that enables consumers from around the world, including the United States, to buy directly from manufacturers and distributors in China. In the twelve months ending on March 31, 2017, AliExpress had approximately 60 million buyers from around the world, and generated US\$10.1 billion in sales volume.

25. Beginning in or about September 2017, and continuing through to the present, certain stores on AliExpress, including, without limitation, the Defendant Stores, have been offering for sale and selling rubber stamps with designs that are identical to Stampin' Up! stamps (the "Knockoff Stamps"). The Knockoff Stamps are sold at prices that dramatically lower than the prices of authentic Stampin' Up! stamps. Approximately 90 Stampin' Up! stamps have been copied and offered for sale on AliExpress within the past year, including at the Defendant Stores.

26. Stampin' Up! brought the Knockoff Stamps to the attention of AliExpress and demanded they be removed from the offending stores. Specifically, Stampin' Up! submitted 143 DMCA takedown notices to AliExpress through the AliProtect intellectual property protection platform from November 2017 to March 2018.

27. While AliExpress generally removed the specific listings for Knockoff Stamps that Stampin' Up! complained about, it did nothing to remove the many other listings for Knockoff Stamps on AliExpress that Stampin' Up! had not yet located, and could not reasonably

be expected to locate due to the size and scope of the AliExpress platform and the continual addition of new listings for Knockoff Stamps in new stores.

28. By way of example, on January 10, 2018, Stampin' Up! submitted a takedown notice to AliExpress through AliProtect regarding a listing in the Gongzhiqian store for a stamp set that is identical to the Stampin' Up! stamp set titled "Bella & Friends." The complained-of listing was taken down. By January 29, 2018, the "Bella & Friends" knockoff stamp had reappeared on AliExpress, this time in the Yiwu Import and Export Trade store. Stampin' Up! accordingly submitted another takedown notice. Again, the complained-of listing was taken down. As of the filing date of this Complaint, the "Bella & Friends" knockoff stamp has reappeared on AliExpress in five new stores. Stampin' Up! is in the process of submitting more takedown notices.

29. This same cycle of takedown/reappearance has occurred with respect to at least the following Stampin' Up! stamp sets:

STAMP	TAKEDOWN DATES
A Little Wild	January 29, 2018 March 1, 2018 March 27, 2018
Always & Forever	January 29, 2018 February 1, 2018 March 27, 2018
Beautiful You	February 7, 2018 (23 listings) March 27, 2018 (2 listings) April __, 2018 (8 listings) (Stampin' Up! is in the process of submitting takedown notices for these listings)
Birthday Blooms	February 5, 2018 (Qianyan) March 27, 2018 (Alpin)
Foxy Friends	February 5, 2018 (Yiwu Import and Export Trade) March 27, 2018 (Coohool)
Jar of Love	January 31, 2018 (KLJUYP Lovers) March 27, 2018 (Liangshangmei)
Numbers of Years	January 31, 2018 (KLJUYP Lovers) March 27, 2018 (ZFParty Handcraft)

Pretty Kitty	February 1, 2018 (Coohool) March 27, 2018 (Hello Bella)
This Little Piggy	January 29, 2018 (WuYu) March 27, 2018 (Alpin)
Weather Together	February 5, 2018 (Yiwu Import and Export Trade) March 27, 2018 (Coohool)

30. In a letter dated March 23, 2018, Stampin' Up! informed AliExpress of the blatant and systematic copyright infringement described above and demanded that AliExpress take action to fix the problem. The letter was e-mailed to Alibaba at ipr@alibaba-inc.com and registeredagent@alibaba-inc.com, and delivered by certified mail in California to Matthew Barriur and Daniel Dougherty, in-house counsel for the Alibaba network of companies. AliExpress has not responded to the letter in any meaningful way.

31. As of April 3, 2018, knockoff stamps for many Stampin' Up! stamps are listed for sale on AliExpress. AliExpress knows, or at a minimum has reason to know, of these infringing listings, and yet allows them to remain.

32. Alibaba Hong Kong has substantially assisted with and contributed to the Defendant Stores' copyright infringement by creating an online marketplace where the Defendant Stores have listed for sale stamps that copy the Stampin' Up! Art without Stampin' Up!'s permission and have sold the knockoff stamps to buyers in the United States.

FIRST CAUSE OF ACTION
(Direct Copyright Infringement)
(against Defendant Stores)

33. Stampin' Up! incorporates by reference paragraphs 1 through 32 above as if fully set forth herein.

34. Stampin' Up! owns the copyrights in and to the Stampin' Up! Art, and has properly registered said copyrights with the United States Copyright Office.

35. At all relevant times herein, Defendant Stores have had access to Stampin' Up!'s catalogs and the rubber stamp art work displayed therein.

36. Defendants have infringed Stampin' Up!'s copyrights by, without authorization, reproducing and distributing copies of the Stampin' Up! Art.

37. Upon information and belief, the aforementioned infringement was willful within the meaning of 17 U.S.C. § 504.

38. Stampin' Up! has suffered damages and injuries as a result of the aforementioned infringement.

SECOND CAUSE OF ACTION
(Contributory Copyright Infringement)
(against Alibaba Hong Kong)

39. Stampin' Up! incorporates by reference paragraphs 1 through 38 above as if fully set forth herein.

40. Alibaba Hong Kong knew or had reason to know, or was willfully blind to the fact, that unauthorized copies of the Stampin' Up! Art were and are being displayed and sold by the Defendant Stores and other merchants on AliExpress.

41. Alibaba Hong Kong induced, caused, or materially contributed to the copyright infringement by the Defendant Stores.

42. Alibaba Hong Kong's conduct as alleged herein has been willful within the meaning of 17 U.S.C. § 504.

43. Stampin' Up! has suffered damages and injuries as a result of the aforementioned infringement.

PRAYER FOR RELIEF

WHEREFORE, Stampin' Up! requests judgment against the Defendants as follows:

1. That Alibaba Hong Kong, their agents, servants and those in active concert and participation with them be enjoined during the pendency of this action and permanently thereafter from allowing merchants to list for sale stamps that copy Stampin' Up! Art.

2. That the Defendant Stores, their agents, servants and those in active concert and participation with them be enjoined during the pendency of this action and permanently thereafter from copying, displaying or distributing material that copies the Stampin' Up! Art.

3. That the Defendants be required to pay damages to Stampin' Up! in an amount as yet undetermined to compensate Stampin' Up! for the damage Stampin' Up! has sustained in consequence of the unlawful actions as described herein, or statutory damages in lieu thereof;

4. That Defendants be required to pay pre-judgment interest on any monetary award;

5. That Defendants be required to pay Stampin' Up! punitive damages;

6. That Stampin' Up! be awarded its reasonable attorneys' fees and costs of suit; and

7. That Stampin' Up! be awarded such other and further relief as the court deems proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Stampin' Up! demands a jury trial on all issues so triable.

DATED this 3rd day of April, 2018.

JONES WALDO HOLBROOK & McDONOUGH

By: /s/ Brett Ekins

Brett D. Ekins

Attorneys for Plaintiff